

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"G" BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND**  
**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.1342/Mum./2021**  
**(Assessment Year : 2015-16)**

M/s. Wellknown Technologies Pvt. Ltd.  
14<sup>th</sup> Floor, Nirmal Backbay Reclamation  
Nariman Point, Mumbai 400 021  
PAN – AAECM3469J

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Central Circle-7(4), Mumbai

..... Respondent

Assessee by : Ms. Vinita Shah  
Revenue by : Shri Hoshang B. Irani

Date of Hearing – 09.03.2022

Date of Order – 06/05/2022

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 10/02/2021, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals)-49, Mumbai ("*learned CIT(A)*"), for the assessment year 2015-16.

2. In this appeal, the assessee has raised following ground:-

*"1. On the facts and circumstances of the case as well as in Law, the learned CIT(A) has erred in restricting the action of Learned Assessing Officer in making a disallowance of Rs.9,30,964, u/s 14A of the Income Tax Act, 1961, without considering the facts and circumstances of the case."*

3. The brief facts of the case pertaining to the only issue arising in present appeal, as emanating from record are: For the year under consideration, the assessee filed its return of income on 30/09/2015 declaring total income of Rs. 1,97,60,720. The assessee derives his income from business. During the year under consideration, the assessee earned dividend income of Rs. 9,30,964, which was claimed as exempted under section 10 of the Act. During the course of assessment proceedings, the assessee was asked to furnish the details of investments and also to show cause as to why the disallowance under section 14A should not be made in accordance with the provisions of Rule 8D of the Income Tax Rules, 1962 (*"the Rules"*). In reply, the assessee submitted that the only eligible investment to be considered for working out the disallowance under section 14A of the Act would be the investment held by the assessee company in equity shares. The assessee, without prejudice, also submitted that the disallowance under no circumstance can exceed the total claim for the expenses made. The Assessing Officer vide order dated 26/12/2017 passed under section 143(3) of the Act did not accept the assessee's submissions and held that it is difficult to accept that an assessee can earn dividend income without incurring any expenses whatsoever including management or administrative expenses as investment decisions are generally taken in a

planned manner. Accordingly, the Assessing Officer made the disallowance of Rs. 11,15,003 under section 14A read with Rule 8D of the Rules.

4. The learned CIT(A) vide impugned order dated 10/02/2021 restricted the disallowance made under section 14A of the Act to the quantum of tax-exempt income earned or accrued during the financial year under consideration. Accordingly, the Assessing Officer was directed to restrict the disallowance under section 14A of the Act to Rs. 9,30,964. Being aggrieved, the assessee is in appeal before us.

5. During the course of hearing, learned Authorised Representative, appearing for the assessee, by referring to financial statement submitted that the assessee incurred no expenditure for earning the exempt income and thus no disallowance can be made under section 14A of the Act.

6. On the other hand, learned Departmental Representative vehemently relied upon the orders passed by the lower authorities.

7. We have considered the rival submissions and perused the material available on record. Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does in form part of the total income under this Act. Further, section 10 of the Act deals with income which do not form part of total income of the assessee. As per Section 10(34) of the Act, any income by way of dividends is fully exempt from tax. Further section 14A (2) of the Act, reads as under:

"(2) The Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of total income under this Act in accordance with such method as may be prescribed, if the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does in form part of the total income under this Act".

8. Thus, if the Assessing Officer is not satisfied with the correctness of the claim of the assessee in respect of expenditure incurred in relation to income which does in form part of the total income, the Assessing Officer can determine the amount of such expenditure after having regard to the accounts of the assessee. In the present case, it is evident from notes forming part of the financial statement that the assessee incurred expenditure of Rs. 53,677 for earning total income of Rs. 2,32,24,633. The details of the said expenditure, at page 13 of paperbook, are as under:

<i>Other Expenses</i>	
<i>Rates and taxes</i>	30,400
<i>Legal and professional fees</i>	200
<i>Payment to auditors</i>	22,472
<i>Preliminary expenses written off</i>	-
<i>Miscellaneous expenses</i>	605
<i>Total</i>	53,677

9. Further, in the present case, it has not been disputed that during the year under consideration, the assessee earned dividend income of Rs. 9,30,964, which was claimed as exempted under section 10 of the Act. The dividend income earned by the assessee during the year under consideration constitutes only 4% of total income of the assessee. However, from the analysis of financial statements for the relevant

assessment year, forming part of the paper book from page No. 3 to 16, it is also evident that direct cost incurred by the assessee is only Rs. 53,677. It is also not the case of the Revenue that the assessee has incurred expenses in the nature of payment of interest for earning the exempt dividend income. The expenditure of Rs. 53,677 for earning total income of Rs. 2,32,24,633 is quite nominal which constitutes only 0.23% only. Further, from the details of expenditure as mentioned above, the Revenue has not specified, which head of expenditure was considered for making disallowance under section 14A of the Act. Thus, in view of the above, having regard to the accounts of the assessee, as forming part of the paperbook, we don't find any basis for upholding the disallowance made under section 14A of the Act. Accordingly, ground raised by the assessee is allowed.

10. In the result, appeal by the assessee is allowed.

Order pronounced in the open court on 06/05/2022

**Sd/-**  
**PRASHANT MAHARISHI**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 06/05/2022**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai